



**PRELIMINARY RECOMMENDATIONS OF THE  
ATTORNEY GENERAL  
AND THE  
AUDITORS OF PUBLIC ACCOUNTS**

**INVESTIGATION CONCERNING SHERIFFS**

**JULY 10, 2001**

**RICHARD BLUMENTHAL**  
ATTORNEY GENERAL

**ROBERT G. JAEKLE**  
AUDITOR OF PUBLIC ACCOUNTS  
**KEVIN P. JOHNSTON**  
AUDITOR OF PUBLIC ACCOUNTS

# INTRODUCTION

As a result of numerous whistleblower complaints, the Attorney General and the Auditors of Public Accounts conducted an investigation and issued an interim report, dated October 11, 2000, concerning the former Connecticut sheriff system. That report detailed a number of practices indicative of a system that had been allowed to operate in the State of Connecticut with little or no oversight or accountability. In November 2000, in a statewide referendum and after much publicity about a problematic system, the citizens of the State of Connecticut voted to eliminate the elected office of Sheriff. In anticipation of that election, Public Act 00-99 (An Act Reforming the Sheriff System) had been passed by the General Assembly and signed by the Governor, and the various duties that had been performed by the Sheriffs were dispersed to other offices and new systems were put into place.

Following the November election, we continued to review Sheriff and Deputy Sheriff financial records, received pursuant to subpoena, to determine if any financial wrongdoing was evident from a review of those records. Despite the volume of records that were provided, in most cases, the records provided were not in a form that could be used to trace actual transactions from beginning to end. In some cases, no records were available at all, either because subpoenas were being challenged or because the Sheriff or Deputy Sheriff claimed that they were unavailable, because they were lost, stolen, burned, or they never existed. Nevertheless, we did select 44 individuals to review their records.<sup>1/</sup> We could not examine records for 9 of the 44, because the individuals were among the group that had filed motions to quash the subpoenas, therefore making them unavailable to us during the review.

Our comments, for the most part, are based on our review of the records of 32 of the remaining 35 individuals, and we believe that if we continued to look at more records, they would reveal more of the same weaknesses that we found. In view of the fact that for many years there had been little or no oversight or accountability over the services that were performed by the Sheriffs and Deputy Sheriffs, it should not be surprising that record keeping was poor and that transactions had been carelessly handled. Considering the shortcomings inherent in such a system where persons could operate with little or no oversight, it would have been surprising if we did not find any problems with the records and the handling of the transactions.

During the investigation, we became aware of a number of written complaints from law firms and from the general public about Sheriffs and Deputy Sheriffs who were alleged to have mishandled collections from executions and/or tax warrants levied on wages or other assets. The complaints outlined a pattern of problems that occurred under the former sheriff system, including funds not being remitted on time, funds not remitted at all, the frustration of contacting the Sheriffs and Deputy Sheriffs and not hearing back, and the failure by some Deputy Sheriffs to even serve executions or legal process. Many of the judgment creditors stated that they did not get paid until they threatened to call the State's Attorney or take civil action. One law firm reportedly had problems with at least 87 executions that involved a Sheriff. Other law firms reported problems with numerous executions that involved 23 Sheriffs or Deputy Sheriffs. Letters

---

<sup>1/</sup> It should be noted that the full complement of sheriffs and deputy sheriffs, excluding special deputy sheriffs, operating in the State was somewhere above 250.

from the public about problems with executions named 17 Sheriffs or Deputy Sheriffs, plus New Haven County and the statewide system in general as being at fault. In summary, the letters described a frustration with a system that did not leave the law firms and the general public any recourse except to be at the mercy of the Sheriff or the Deputy Sheriff.

We believe that our proper role at this time is to point out the weaknesses we noted in the old system, suggest good business practices that if instituted might have eliminated or minimized those weaknesses, and to provide our recommendations to the State Marshal Commission, which is now responsible for certain services formerly provided by the former sheriff system. The Auditors of Public Accounts have an audit responsibility over the newly created State Marshal Commission. However, the Auditors have not yet examined the new systems or evaluated whatever control procedures may or may not have been put into place. Nevertheless, our comments are being offered with the intention that the State Marshal Commission will carefully review our recommendations in order to assure that the weaknesses being pointed out with respect to the former sheriff system are not allowed to continue in the future.

The information that we are providing below summarizes the types of problems that we found when we examined the selected group of records, or that we noted from complaints made by law offices and the general public. The statutory and reporting exceptions and other questionable practices that are cited below were permitted to exist essentially because there were no overall general controls in place to prevent them. We cannot say for certain that if we examined more records, that these would be the only problems to be found. It is important to note that we do not intend to state that all of the individuals who had worked under the former sheriff system had abused it. Rather we do intend to say that with the lack of adequate control procedures in place, the opportunity was present for all to do so.

## **RECOMMENDATIONS<sup>2/</sup>**

Based upon our review we make the following recommendations:

### **I. RECORD KEEPING**

There were numerous instances noted in which the records provided by the Sheriffs and Deputy Sheriffs, in response to subpoenas, were inadequate. In one case, a Deputy Sheriff indicated that he kept no records of his cases, and that each transaction was handled in cash or with money orders. Some records consisted of only bank statements, with no other accounting records for collections made from executions or process services. In three cases, Deputy Sheriffs did not submit any records in response to the subpoenas.

---

<sup>2/</sup> When we refer below to a client/trustee account, we are referring to an account that should be used as a holding account for which wage or other execution receipts are held on behalf of the judgment creditor or other owner of the funds. The services of a Sheriff or a Deputy Sheriff were required for levying upon the funds or other property. There were statutes governing the fees to be charged and a maximum time period for remittance to the judgment creditor or owner of the funds. However, there were no statutes or regulations governing how such funds were to be treated or accounted for.

Inadequate record keeping allows for many types of irregularities. For example, the collection date on executions or tax warrants may not be recorded, increasing the likelihood that the collected amount would not be remitted to the authorized person within the statutory time frames. Not having good records offered an opportunity to the custodian of the money to misuse it and not have the misuse detected. Similarly, without adequate detailed records of fees charged for service of process, compliance with statutory fee guidelines could not be verified. Additionally, the accuracy of Federal and State income tax reporting, along with State Ethics Commission reporting, may be questionable. We do want to point out that there were degrees of record keeping adequacy. Some individual records were better than others and some were considered to be good.

**SUGGESTED GOOD BUSINESS PRACTICE:**

A uniform record keeping system should have been in place for all executions and tax warrants that documented all aspects of each transaction and included an adequate audit trail. A monthly balancing procedure that would have reconciled the accounting records to the client/trustee bank account should have been included as part of that system. In addition, the statutory fees should have been matched to the executions or tax warrants collected and paid. To assure the integrity of the record keeping system, an audit process or other oversight function should have been in place. These measures should have been able to determine that execution or tax warrant collections were properly deposited, not held longer than prescribed by law, and that such collections were not converted, either temporarily or permanently, for the private use of the Sheriff or Deputy Sheriff.

There should also have been record keeping requirements governing the charges imposed for service of process. Such records should have included, at a minimum, uniform billing invoices that presented a detailed breakdown of the charges and identified the applicable statutory authority for the charges.

**II. INTEREST EARNED & ACCOUNT NAMES:**

There were several instances noted in which Sheriffs or Deputy Sheriffs maintained client funds in interest bearing accounts, thereby earning interest from client monies, and several instances in which the client/trustee accounts were not solely in the name of the Sheriff or Deputy Sheriff. Using more than one name on these accounts lessens the assurance that the funds are properly safeguarded. If interest is earned from a client/trustee account, it should belong to the owner of the funds, not to the custodian.

**SUGGESTED GOOD BUSINESS PRACTICE:**

There might have been a need for regulations or a statutory change that would have clarified the requirements for these fiduciary-type accounts, including being noninterest earning. No other persons, except the custodians or their authorized agents, should have had access to these accounts.

**III. COMMINGLING OF FUNDS.**

Some Sheriffs or Deputy Sheriffs were commingling client funds with monies earned from other sheriff services. It was also noted that some Sheriffs or Deputy Sheriffs maintained multiple

client/trustee accounts without any apparent organization or purpose for the separation. Commingling client funds with other receipts and maintaining multiple client/trustee accounts both significantly weakened controls and accountability for client funds.

**SUGGESTED GOOD BUSINESS PRACTICE:**

Sheriffs or Deputy Sheriffs who maintained client/trustee funds should have been limited to a maximum of one client/trustee bank account; been required to deposit only client funds into that account and make only execution related disbursements, disbursements for payment to themselves to satisfy their statutory fee, or disbursements for legitimate expenses of serving the executions for which there was suitable supporting documentation. Each fee payment should have included calculations and client account documentation to support the statutory fee.

**IV. IMPROPER EXPENDITURES.**

There were numerous instances noted in which disbursements from client/trustee bank accounts were made for payments other than execution payments, the ten percent statutory fee that the Sheriff or Deputy Sheriff was entitled to, or other properly documented expenses which were authorized by law. Such disbursements included payments for personal expenses or other personal items. This condition made it nearly impossible to determine whether the fee taken was for the statutory amount. In the case of one Deputy Sheriff, for the 1998 calendar year, we noted disbursements from the client/trustee account that included 58 checks written to "Cash", totaling \$21,636; 52 checks written to one bank, totaling \$80,896; 42 checks written to another bank, totaling \$42,100; and 15 checks written for personal items, totaling \$8,388. We did not note any checks from the client/trustee account that were payable to the Deputy Sheriff for that period. There were others that used the client/trustee account to pay for a wide range of personal as well as business expenses, including but not limited to housing costs (i.e. mortgage, telephone, lights, heat) personal credit payments (i.e. Filene's, Mastercard, Visa) and miscellaneous charitable and political contributions. While such disbursements may have equaled the fee that each was entitled to, that method of payment clouds the determination of the fee actually taken and may affect the computation of the actual income amounts reported by the Sheriffs and Deputy Sheriffs. We also noted another Deputy Sheriff whose client/trustee account reflected only disbursements to clients, thereby permitting the statutory fee to accumulate in the client/trustee account from year to year.

**SUGGESTED GOOD BUSINESS PRACTICE:**

Disbursements for expenses other than execution and tax warrant remittances from a client/trustee bank account should have been limited to the ten percent fee that the Sheriff or Deputy Sheriff was entitled to under the General Statutes, and paid directly to the Sheriff or Deputy Sheriff, or for properly documented expenses which were statutorily authorized. Each check paid should be payable to a specific payee rather than cash and should have included documentation supporting the fee. The records should have been maintained in a manner that presented each client account and the transactions that the fees were taken against. Also, the statutory fee should not have been permitted to accumulate in a client/trustee account.

## **V. CONVERSION, LATE PAYMENTS, NON-PAYMENTS.**

We became aware of numerous complaints from attorneys and clients concerning the withholding of execution funds by the Sheriffs and Deputy Sheriffs beyond the statutory limits. In some cases it was alleged that funds were never remitted by the Sheriff or Deputy Sheriff. There were instances noted where it appeared that Sheriffs or Deputy Sheriffs were converting clients' funds for personal use. Further potential evidence of conversion of clients' funds was found in two cases, where checks were returned for insufficient funds. Although a review was not completed on one of the Sheriffs who had filed motions to quash concerning his records and related bank records, a law firm had supplied us with copies of NSF (non sufficient funds) checks written by the Sheriff from his client/trustee account. Several instances were found where client funds were not remitted to the client within the statutory limits of 90 days after receipt, or \$1,000 accrued. Although a statutory penalty could have been assessed against a Sheriff or Deputy Sheriff for late remittance of execution and warrant payments, the overall inadequacies of the records made it impractical to attempt to determine whether there should have been a penalty and how much it would have been. Finally, there may have been cases where the client funds were never remitted, but again the inadequacies of the records impeded a positive determination of which clients were affected and by how much.

### **SUGGESTED GOOD BUSINESS PRACTICE:**

Sheriffs and Deputy Sheriffs who maintained client funds should have been held to standards similar to, if not the same as that of a fiduciary, and therefore should not have been permitted to convert clients' funds to personal use. There should have been a periodic standard reporting package that included an accounting of client/trustee account assets, liabilities, and cash transactions, and the reporting package should have been reviewed by a central oversight entity on a timely basis to ensure that client funds were not mishandled and remittances were being made in compliance with statutory requirements

## **VI. DELAYED DEPOSITS.**

There were instances noted in which Sheriffs or Deputy Sheriffs appeared to hold on to wage execution checks for as long as three to four months before depositing them into the client/trustee account. Again, given the inadequate records, it was impractical to positively determine when the money was actually paid to the client.

### **SUGGESTED GOOD BUSINESS PRACTICE:**

Standards should have been in place requiring timely deposits of client/trustee receipts to the appropriate bank account.

## **VII. ETHICS COMMISSION FILINGS.**

In light of the poor quality of record keeping by most Sheriffs and Deputy Sheriffs, we found that in many cases records did not support figures on income and expenses as reported to the State Ethics Commission. Recalculation of income from executions based on bank recorded receipts deposited to the client/trustee accounts showed cases in which such income appeared to

have been underreported. In one case, we were able to verify that income from executions was underreported by some \$70,000 in one year.

**SUGGESTED GOOD BUSINESS PRACTICE:**

Each Sheriff or Deputy Sheriff required to file with the State Ethics Commission should have maintained supporting records detailing the calculation of reported figures. An oversight group should have periodically reviewed the filings for accuracy.

**VIII. EXCESSIVE FEES.**

In many of the records that we reviewed, a specific breakdown of fees charged by the Sheriffs or Deputy Sheriffs for duties performed could not be found. Nevertheless, we noted that there had been numerous complaints citing that incorrect fees had been charged. Without sufficient records, we were unable to substantiate the allegation of excessive fees, except as described below with respect to City of New Haven tax warrants.

**SUGGESTED GOOD BUSINESS PRACTICE:**

Standardized record keeping should have been in place, so that regular oversight and audits of records would have found the inaccurate fees.

**IX. INADEQUATE RESOLUTION OF COMPLAINTS.**

We noted from our review of numerous complaints concerning service of executions, and collection issues related to executions, that complaints were often directed to the Deputy Sheriff holding the money, and subsequently to the Chief Deputy Sheriff and to the Sheriff. In many instances, the complaints were made about the same individuals, many times over. The majority of the individuals who had served as Deputy Sheriffs under the former sheriff system did not have complaints made against them.<sup>3/</sup> However, for the complaints that were made, it was evident that they were not adequately handled by the Deputy Sheriffs, the Chief Deputy Sheriffs, or by the Sheriffs, as there were several repeated complaints. Some were filed with other agencies as well, such as under the whistleblower law.

We further noted that some of the complaints received from varied sources claimed Sheriffs or Deputy Sheriffs did not serve papers entrusted to them or they failed to serve the papers in a proper and timely nature. In one case, so many complaints had been received that the Deputy Sheriff was ostensibly suspended from further handling of executions or tax warrants. Although the suspension came from the Sheriff, it was noted in available records of that Sheriff that executions continued to be assigned to this Deputy Sheriff by the office of the Sheriff. This area could not be comprehensively reviewed because of the lack of adequate and complete records and the necessary return of unserved papers to the complainants. Since the General Statutes required service by a Sheriff or Deputy Sheriff, the complainants were forced to use other Deputy Sheriffs after the initial failure to serve that was complained about. In some cases this involved a return to the court system for updated documents.

---

<sup>3/</sup> In the case of one Sheriff it was not possible to determine the full extent of complaints against Deputy Sheriffs in the past since there is evidence that he gave all such files of his predecessor back to the Deputy Sheriffs and we were not able to locate any such files maintained by him.

**SUGGESTED GOOD BUSINESS PRACTICE:**

A formal complaint system should have been in place and an independent entity should have been responsible for accepting and investigating complaints. The general public should have been informed of where and how to make such a complaint. Including a telephone number and specific instructions about how to file a complaint on all documents that were handled by the Sheriffs or Deputy Sheriffs may have offered the public an effective way of filing a complaint.

**X. EXCESSIVE FEES AND COSTS FOR SERVICE OF CITY OF NEW HAVEN TAX WARRANTS.**

Three groups of Deputy Sheriffs served tax warrants for the City of New Haven during the period under investigation. Following preliminary inquiries, it appeared that the practices of two of these groups might be questionable. Based on allegations and complaints, and on copies of invoices for delinquent taxes, we found that one of the groups was charging taxpayers higher fees and expenses than those established by the General Statutes. The provisions of Conn. Gen. Stat. § 52-261 had allowed expenses for mileage, filing fees, and other costs associated with processing an execution, however, we found that a flat expense fee of \$30 was arbitrarily applied to each alias tax warrant in addition to the sheriff fee. Additionally, under Conn. Gen. Stat. § 12-146, sheriff fees for processing the tax warrant were set at ten percent of the taxes collected pursuant to the warrant, with a minimum of \$20. Our review found that the same group had charged a minimum of \$25 for sheriff fees. These exceptions were noted from a limited review of the transactions processed by these groups of sheriffs. We believe that if such a review were to be expanded, additional exceptions of the same type would be found. In addition, one of these groups used a bank account identified as a tax warrant account for the City of New Haven which appeared to be a bank account belonging to the City of New Haven even though it was actually a bank account under the control of this group of Deputy Sheriffs.

**SUGGESTED GOOD BUSINESS PRACTICE:**

Invoices of fees and expenses applied to tax warrants should have been periodically reviewed by an oversight entity to assure that all was in compliance with the applicable statutes. In addition, Deputy Sheriffs should not have opened a bank account that appeared to be a bank account belonging to the City of New Haven.

**XI. TRAINING.**

Although seminars or other training that may have been beneficial in informing Sheriffs and Deputy Sheriffs of proper procedures and record-keeping matters were occasionally offered, such training was not a requirement under the former sheriff system. It was apparent that procedures and record-keeping matters varied by county, depending on the systems instituted by the elected Sheriff of each county.

**SUGGESTED GOOD BUSINESS PRACTICE:**

Since the laws governing the former sheriff system applied to the entire State of Connecticut, Sheriffs and Deputy Sheriffs who were to execute transactions in accordance with such laws should have been required to receive adequate specialized training from the State. Such training should have included specific procedural and legal matters, as well as financial and



accounting issues that Sheriffs and Deputy Sheriffs would have been reasonably expected to encounter.

## **XII. ABSENCE OF AUDITS.**

The financial records maintained by the Sheriffs and Deputy Sheriffs were not subject to audits or reviews. As described above, many of the conditions that were found were related to poor record keeping and a lack of accountability. If these records would have been subject to a periodic surprise review or an audit by an independent entity, and if sufficient penalties were enforced for noncompliance, some of the problems with the former sheriff system may have been avoided.

### **SUGGESTED GOOD BUSINESS PRACTICE:**

A system should have been in place that would have allowed periodic reviews or audits of the financial records and accounts of the Sheriffs and Deputy Sheriffs. These audits or reviews should have been conducted randomly and on a surprise basis. When substantial noncompliance was found, sufficient remedies should have been in place to assure future compliance, or if of a serious and ongoing nature, caused the dismissal of the responsible individual.

# CONCLUSION

As indicated above, the abuses and poor business practices rampant in the former sheriff system were permitted to exist because there were no controls in place to prevent them. The procedures that were in place under the former sheriff system did not provide reasonable assurance that adequate records were maintained and that compliance with relevant laws were being followed.

The former sheriff system, as it had existed, presented the opportunity for abuse to continually occur without detection. Further, there were systemic weaknesses that presented the opportunity for errors, irregularities or illegal acts to occur without detection. Most damaging were the effects that the system may have had on individuals who were statutorily required to use the system for transactions such as the levying of executions or for process serving.

We emphasize that we do not conclude here that all of the individuals who worked under the former sheriff system abused the system and it is most likely that the majority did not. However, the problems that were revealed by our review and that were detailed in the numerous complaints tainted the whole system.

We are making these recommendations to the State Marshal Commission. The State Marshal Commission should carefully review our recommendations in order to assure that the weaknesses being pointed out are not allowed to continue in the future.

Dated at Hartford, Connecticut, this the 10th day of July, 2001.

---

Robert G. Jaekle  
Auditor of Public Accounts

---

Kevin P. Johnston  
Auditor of Public Accounts

---

Richard Blumenthal  
Attorney General